

TOWN OF ADDISON, TEXAS

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING A THIRD AMENDMENT TO GROUND LEASE BETWEEN THE TOWN OF ADDISON AND KEY DEVELOPMENT, LLC FOR COMMERCIAL AVIATION USE ON PROPERTY LOCATED AT 4500 WESTGROVE DRIVE, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT, AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

Section 1. The Third Amendment to Ground Lease between the Town of Addison and Key Development, LLC for commercial aviation use on property located at 4500 Westgrove Drive, a copy of which is attached to this Resolution as **Exhibit A**, is hereby approved and the City Manager is authorized to execute the agreement.

Section 2. This Resolution shall take effect from and after its date of adoption.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the 13th day of December, 2016.

Todd Meier, Mayor

ATTEST:

By: _____
Laura Bell, City Secretary

APPROVED AS TO FORM:

By: _____
Brenda N. McDonald, City Attorney

EXHIBIT A

**STATE OF TEXAS §
 § **THIRD AMENDMENT TO GROUND LEASE**
COUNTY OF DALLAS §**

This Third Amendment to Ground Lease (hereinafter referred to as the "Third Amendment") is entered into and made effective as of _____ 2016, (the "Effective Date") at Addison, Texas, by and between the Town of Addison, Texas, a home-rule municipality (hereinafter sometimes referred to as the "Landlord" or the "City"), and Key Development, LLC, a Texas limited liability company ("Tenant") (Landlord and Tenant are sometimes referred to as the "parties" or "party").

WHEREAS, a Ground Lease, together with the Addendum to Ground Lease, was executed on March 2, 1984 between the City of Addison, Texas (the same being the Town of Addison, Texas and sometimes referred to herein as the "City") and Addison Airport of Texas, Inc. ("AATI") as Landlord, and Lawson Ridgeway as Tenant, recorded in Volume 86022, Pages 0124-0133 of the Deed Records of Dallas County, Texas; and the Easement Agreement entered into on or about April 16, 1984 by and between Lawson Ridgeway as Granter and the City and AATI as Grantee, recorded as Instrument #198601697396 in Volume 861969, Pages 5742-5748 in the Deed Records of Dallas County, Texas, comprising the Ground Lease, as amended or modified, hereinafter referred to as the "Ground Lease" and described in that certain boundary survey dated June 6, 2006, by the terms the real property now commonly known as 4500 Westgrove Drive at Addison Airport within the Town of Addison, Texas and owned by the City; and

WHEREAS, the Lease provides that, upon the expiration or termination of that certain agreement referred to and defined in the Ground Lease as the "Base Lease" (and being an Agreement for Operation of the Addison Airport between the City and AATI), the City is entitled to all of the rights, benefits and remedies, and will perform the duties, covenants and obligations of the Landlord under the Lease; and

WHEREAS, the said Base Lease has expired and the City alone is the Landlord under the Ground Lease; and

WHEREAS, by that Assignment of Lease dated October 23, 1985, recorded in Volume 86169, Pages 5724-5748 of the Deed Records of Dallas County, Texas, the Ground Lease was assigned from LAWSON RIDGEWAY, as assignor, to GREAT SOUTHWEST HOMES, INC., as assignee; and

WHEREAS, by that Assignment of Lease dated May 31, 1988, recorded as Instrument #198801897613, in Volume 88189, Pages 1182-1201 of the Deed Records of Dallas County, Texas, the Ground Lease was assigned from GREAT SOUTHWEST HOMES, INC., as assignor, to TARFIVE, INC., as assignee; and

WHEREAS, by that Substitute Trustee's Deed, dated September 7, 1988, recorded as Instrument #198801897613 in Volume 88178, Pages 1420-1425 of the Deed Records of Dallas

County, Texas, the Ground Lease was assigned from TARFIVE, INC., as assignor to the beneficiary, MCORP MANAGEMENT SOLUTIONS, INC., as assignee; and

WHEREAS, by that Assignment of Lease dated September 8, 1988, recorded as Instrument #198900044704 in Volume 89004, Pages 577-580 of the Deed Records of Dallas County, Texas, the Ground Lease was assigned from MCORP MANAGEMENT SOLUTIONS, INC., a Texas corporation, as assignor, to REALTY ALLIANCE OF TEXAS, LTD., a Texas limited partnership, as assignee; and

WHEREAS, by that Assignment of Ground Lease dated March 15, 1990, recorded as Instrument #199000545456 in Volume 90054, Pages 1648-1687 of the Deed Records of Dallas County, Texas, the Ground Lease was assigned from REALTY ALLIANCE OF TEXAS, LTD., a Texas corporation, as assignor, to ITALIX ACQUISITION CORPORATION, a Texas corporation, as assignee; and

WHEREAS, by that Assignment of Ground Lease dated March 31, 1999, recorded as Instrument #199900523035 in Volume 99063, Pages 1763-1767 of the Deed Records of Dallas County, Texas, the Ground Lease was assigned from ITALIX ACQUISITION CORPORATION, a Texas corporation, as assignor, to AIR 276 I, L.P., a Texas limited partnership, as assignee; and

WHEREAS, by that Assignment of Ground Lease dated July 7, 2000, recorded as Instrument #200001054648 in Volume 2000132, Pages 07549-07556 of the Deed Records of Dallas County, Texas, the Ground Lease was assigned from AIR 276 I, L.P., a Texas limited partnership, as assignor, to ADS AIR 2000, L.P. a Texas limited partnership, as assignee; and

WHEREAS, by that Assignment of Ground Lease dated September 15, 2006, recorded as Instrument #200600346255 of the Deed Records of Dallas County, Texas, the Ground Lease was assigned from ADS AIR 2000, L.P., a Texas limited partnership, as assignor, to Key Development LLC., a Texas limited liability company, as assignee; and

WHEREAS, by virtue of such assignments, Key Development, LLC, a Texas limited liability company, is the Tenant under the Ground Lease, as amended or modified as of the effective date given above for this Third Amendment; and

WHEREAS, the Ground Lease was modified by that First Amendment to Ground Lease made and entered into September 15, 2006 (hereinafter referred to as the "First Amendment"), recorded as Instrument #200600346256 of the Deed Records of Dallas County, Texas, modifying, among other things, the term of the Ground Lease by adding two hundred forty (240) months, (ending 3/31/2044); provided within eighteen (18) months of the effective date of the First Amendment Tenant completes the remodeling and renovation of approximately 10,000 sf. of office space and the construction of at least 5,000 sf. of additional hangar space (conditions detailed in Section 2, Paragraph A of the First Amendment); and

WHEREAS, by that certified letter to Tenant dated September 17, 2008, Landlord confirmed (i) the Ground Lease extension in accordance with the First Amendment and (ii) Tenant elected not to complete the Improvements as defined in Section 2, Paragraph A of the

First Amendment and did not elect either of the alternate options as defined in Subparagraph (vii) of Section 2, Paragraph A of the First Amendment. Therefore, the Term of the Ground Lease was extended by one hundred eighty (180) months so that the Term of the Ground Lease shall end on March 31, 2039, still subject to the termination provisions of the Ground Lease as amended or modified; and

WHEREAS, the Ground Lease was modified by that Second Amendment to Ground Lease made effective December 3, 2015 (hereinafter referred to as the "Second Amendment"), extending the modified term of the Ground Lease by an additional ninety-six (96) months, (ending 3/31/2047), provided within twelve (12) months of the effective date of the Second Amendment Tenant completes Three Hundred Seventy-Eight Thousand and No/100 Dollars (\$378,000.00) of scheduled Building Improvements set forth in Exhibit "B" pursuant to Section 2, Paragraph A of the Second Amendment; and

WHEREAS, due to unforeseen circumstances, Tenant is unable to complete all of the Second Amendment Building Improvements (set forth in Exhibit "B") within the twelve (12)-month Repair and Improvement Period provided for in the Second Amendment and in connection therewith, and as consideration thereof, Landlord and Tenant desire to amend the Ground Lease in the manner set forth below, contingent upon the final completion of such Building Improvements and the approval thereof by Landlord; and

WHEREAS, a true and correct copy of the Ground Lease as amended or modified as set forth above is attached hereto and incorporated herein by reference as Exhibit "A".

NOW, THEREFORE, for and in consideration of the above and foregoing premises, the sum of Ten and No/100 Dollars (\$10.00), and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Town of Addison, Texas and Key Development, LLC, a Texas limited liability company, do hereby agree as follows:

Section 1. Incorporation of Premises. The above and foregoing recitals are true and correct and are incorporated herein and made a part hereof.

Section 2. Amendments and Modifications to Ground Lease. The Ground Lease, as described in the above and foregoing recitals, is hereby amended and modified as follows:

A. Amendment to the "Repair and Improvement Period" as defined by the Second Amendment Section A.1 (i) of the Ground Lease is amended to hereby extend an additional eighteen (18) months to now expire on June 3, 2018.

Section 3. No Other Amendments. Except to the extent modified or amended herein, all other terms and obligations of the Ground Lease shall remain unchanged and in full force and effect.

Section 4. Applicable Law; Venue. In the event of any action under this Third Amendment, exclusive venue for all causes of action shall be instituted and maintained in Dallas County, Texas. The parties agree that the laws of the state of Texas shall govern and apply to the interpretation, validity and enforcement of this Third Amendment; and, with respect to any

conflict of law provisions, the parties agree that such conflict of law provisions shall not affect the application of the law of Texas (without reference to its conflict of law provisions) to the governing, interpretation, validity and enforcement of this Third Amendment. All obligations of the parties created by this Third Amendment are performable in Dallas County, Texas.

Section 5. No Third Party Beneficiaries. This Third Amendment and each of its provisions are solely for the benefit of the parties hereto and are not intended to and shall not create or grant any rights, contractual or otherwise, to any third person or entity.

Section 6. Authority to Execute. The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Third Amendment on behalf of the parties hereto, and each party hereby certifies to the other that any necessary resolutions or other act extending such authority have been duly passed and are now in full force and effect.

IN WITNESS WHEREOF, the undersigned parties execute this Third Amendment to Ground Lease this _____ day of _____, 2016.

TENANT:

KEY DEVELOPMENT, LLC

By: 
James W. Keyes, President

LANDLORD:

TOWN OF ADDISON, TEXAS

By: _____
Wesley S. Pierson, City Manager

ACKNOWLEDGMENT

STATE OF TEXAS §
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, on this day personally appeared James W. Keyes, president of Key Development, LLC, a Texas limited liability company, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein stated.

GIVEN under my hand and seal of office this 16TH day of NOVEMBER, 2016.



Sharon E. Shobe
Notary Public, State of Texas

STATE OF TEXAS §
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, on this day personally appeared Wesley S. Pierson, city manager of the Town of Addison, a home-rule municipality, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein stated.

GIVEN under my hand and seal of office this _____ day of _____, 2016.

[SEAL]

Notary Public, State of Texas

EXHIBIT A

COPY OF GROUND LEASE AS AMENDED AND MODIFIED

Due to the voluminous size of the historical documents, they are not included herein.
However, they are available for review upon request in the archives of the Town of Addison,
Dallas County, Texas.